

Remarks

Applicants respectfully request reconsideration of the present U.S. Patent application, as presently amended, in light of the remarks in this paper. Claims 1-4, 7, 8, 12, 15, 16, 19, and 26-33 have been rejected. Claims 5, 6, 9-11, 17, 18, and 20-25 have been cancelled previously. Claims 1, and 26 are presently amended. No claims are presently cancelled or added. Thus, claims 1-4, 7, 8, 12, 15, 16, 19, and 26-33 are pending.

OBJECTIONS TO CLAIMS

The amended claims filed May 12, 2005 are objected to for failing to appropriately mark amendments. The listing of claims in Appendix A was filed with Applicant's Response of May 12, 2005 and show then current amendments.

REJECTIONS UNDER 35 U.S.C. §102(e)

Claims 1, 3, and 7 stand rejected under 35 U.S.C. §102(e) as being anticipated by Kaiser, et al. (U.S. Pub. No. 2002/0120724; "Kaiser"). Claims 31-33 similarly stand rejected as being anticipated by Liroy (U.S. Patent No. 6,775,553; "Liroy").

Applicants respectfully maintain the Office Action rejections, based on Kaiser, to Claims 1, 3, and 7 under 35 U.S.C. § 102(e) are moot in light of Applicant's 37 C.F.R. § 1.131 declaration filed May 12, 2005. Further, Applicants respectfully submit claims 31-33 are distinguished from Liroy.

37 C.F.R. § 1.131 Declaration Renders Moot the Rejection of Claims 1, 3, and 7

The filing date of Kaiser is February 23, 2001. The Applicant's 37 C.F.R. § 1.131 declaration, filed May 12, 2005, certifies, among other facts, that "the subject invention

was conceived at least as early [as] January 8, 2001.” Because the date of the present invention’s disclosure antedates Kaiser, Applicants respectfully maintain Examiner’s rejections to claims 1, 3 and 7 under 35 U.S.C. § 102(e) are rendered moot.

“An accompanying exhibit need not support all claimed limitations, provided that any missing limitation is supported by the declaration itself.” **MPEP 715.07** citing *Ex parte Ovshinsky*, 10 USPQ2d 1075 (Bd. Pat. App. & Inter. 1989).

Applicants submit the cited limitation is supported by the Applicant’s declaration. Admittedly, the invention’s disclosure does not recite word for word the limitation “circuitry coupled with the infrared device to receive the configuration data and to configure a network interface of the server to provide network functionality base, at least in part, on the network configuration data.” However, taking into account Applicant’s declaration (“the **subject invention** was conceived at least as early as January 8, 2001”) in light of MPEP 715.07, the exhibit supplied with Applicant’s declaration need not recite each and every limitation. By generally referring to “the subject invention,” Applicants submit the cited limitation is supported by the Applicant’s declaration.

Further, Applicants submit that the exhibit itself supports the cited limitation when interpreted as a practitioner would interpret the exhibit. Applicants submit that one skilled in the art, relying on the exhibit (invention disclosure) as written, would understand the invention to include the cited limitation. The exhibit recites “a wireless interface that allows programming the Appliance Servers [sic] IP address, using a PDA, Internet Tablet, or future ‘Blue Tooth’ device” and, with regard to the figures of page 3, subsection 3, “Program IP address via wireless device: A) ... IrDA retractable door / device ... B) ... IrDA switch / rack ... C) ... Blue Tooth technology.” Applicants submit

that one skilled in the art would understand the recitation in the exhibit to inherently include circuitry to receive the configuration data and to configure a network interface of the server to provide network functionality.

Further evidence in support of Applicant's position derives from the disclosure distinguishing the prior art from the invention through illustration using similar detail. One skilled in the art would understand the buttons of the prior art to be coupled to circuitry to configure a network interface of the server to provide network functionality base, at least in part, on the network configuration data. Thus, Applicants submit by reciting at least "a wireless interface that allows programming the Appliance Servers [sic] IP address, using a PDA, Internet Tablet, or future 'Blue Tooth' device," one skilled in the art would understand the disclosure to include the claims as amended, including circuitry to receive the configuration data and to configure a network interface of the server to provide network functionality.

Applicants further submit Applicants pursued due diligence.

The critical period for diligence for a first conceiver but second reducer begins not at the time of conception of the first conceiver but just prior to the entry in the field of the party who was first to reduce to practice and continues until the first conceiver reduces to practice.

MPEP 2138.06, citing *Hull v. Davenport*, 90 F.2d 103, 105, 33 USPQ 506, 508 (CCPA 1937).

Thus, the present critical period begins just prior to February 23, 2001, the filing date of Kaiser and ends on March 30, 2001, the filing date, and date of constructive reduction to practice, of the present invention.

Reasonable diligence is all that is required of the attorney. Reasonable diligence is established if attorney worked reasonably hard on the application during the continuous critical period. If the attorney has a reasonable backlog of unrelated cases which he takes up in chronological order and carries out expeditiously, that is sufficient.

MPEP 2138.06, citing *Bey v. Kollonitsch*, 866 F.2d 1024, 231 USPQ 967 (Fed. Cir. 1986).

The attached declaration under 37 C.F.R. 1.132 establishes Applicant's attorney pursued reasonable diligence in preparing and filing the original application. Specifically, preparation of the application was assigned to Greg D. Caldwell (GDC) on February 2, 2001 and the application was filed on March 30, 2001, a mere fifty-six days later. This time frame should satisfy the reasonable diligence requirement set forth above. Applicants point out that Monte Rhodes' declaration and original invention disclosure, also attached, refer to the same matter number and thus the same invention. Thus, Applicants respectfully submit the rejection to claims 1, 3, and 7 are moot for at least the foregoing reasons.

Rejected Claims 31 – 33 are Distinguished from Lioy

In rejecting claims 31-33 as being anticipated by Lioy, the Office Action recites

Regarding claim 31, the applicant argues on page 7, lines 13-16 that "In light of amended Claim 31, the present invention configures a second network interface different from the Bluetooth interface, on the network appliance. In contrast, as the Examiner noted, Lioy teaches configuring mobile terminal equipment, different from the server." ***The examiner agrees with this argument.*** However, the applicant didn't claim the citation 'configures a second network interface different from the Bluetooth interface'. Thus the rejection of the claim in view of Lioy remains.

Claim 31 reads:

receiving radio frequency signals conforming to a Bluetooth standard containing configuration information ***via a first interface***; converting the radio frequency signals to machine-accessible configuration information; and configuring a ***second*** network interface of the network appliance to operate based on the configuration information.

Applicants would like to thank Examiner for commenting on the Applicant's arguments. Applicants respectfully point out that claim 31 recites the *distinction* between the *first* interface, capable of receiving Bluetooth standard radio frequency signals containing configuration information, and the *second* network interface of the network appliance, the second network interface to operate based on the configuration information. Lioy specifically fails to teach a network interface distinct from the wireless interface. Thus, Applicants submit, in light of the claim 31 distinction between the first and second interface, and in further light of Examiner's comments, Claim 31 is distinguished from Lioy. Further, because claims 32 and 33 are dependent on claim 31 and thereby incorporate the limitations of claim 31, Applicants submit claims 32 and 33 are distinguished from Lioy for at least the same reason as claim 31. Thus, Applicants submit the rejection to claims 31-33 have been overcome for at least the foregoing reasons.

REJECTIONS UNDER 35 U.S.C. § 103 ARE MOOT BECAUSE THEY RELY ON KAISER

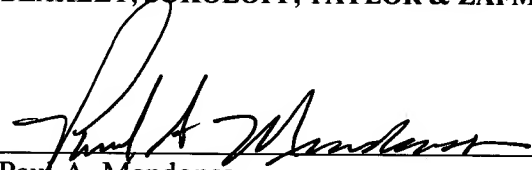
Claim 2 stands rejected under 35 U.S.C. § 103 in light of Kaiser, et al. (U.S. Pub. 2002/0120724) and further in light of Linares, et al. (U.S. Patent No. 6,442,032; "Linares"). However, because Kaiser does not qualify as Prior Art as discussed above, the rejection of claim 2 is moot. Similarly, the rejections of claims 4, 12, 15, 16, 19, 26-30 partially rely on Kaiser as Prior Art and are thus moot for at least the same reason as claim 2. Thus, Applicant's respectfully submit the rejections to claims 2, 4, 12, 15, 16, 19, and 26-30 have been traversed.

Conclusion

For at least the foregoing reasons, Applicants submit that the Examiner's rejections have been overcome by amendment or traversed. Therefore, claims 1-4, 7, 8, 12, 15, 16, 19, and 26-33 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application. Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,
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